

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ROBERT BOGGS, No. 03:09-CV-116-ST

Plaintiff, ORDER

v.

JOHN K. HOOVER, JOHN C. BRADLEY,
CHARLES R. FRENCH, JO'EY STEWART,
AGNES SOWLE, and KATHRYN A. SHORT,

Defendants.

Stephen L. Brischetto
Attorney at Law
621 SW Morrison Street
Suite 1025
Portland, OR 97205

Attorney for Plaintiff

Stephen Edward Dingle
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

Jenny M. Morf
Katharine Von Ter Stegge
Office of the Multnomah County Attorney
501 SE Hawthorne Boulevard
Suite 500
Portland, OR 97214

Attorneys for Defendants

HERNANDEZ, District Judge:

Magistrate Judge Janice Stewart issued a Findings and Recommendation (#105) on May 23, 2011, in which she recommends that the Court grant Defendants Sowle and Short's Motion to Dismiss Amended Complaint (docket #89) and Defendants Hoover, Bradley, and French's Motion for Summary Judgment Against First Amended Complaint (docket #91). Plaintiff Boggs timely filed objections to the Findings and Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered Plaintiff Boggs's objections and conclude that the objections do not provide a basis to modify the Findings and Recommendation.¹ I have also reviewed the

¹For clarification, I believe the first sentence on page 12 should read "Boggs contends that the necessary implication of Judge King's Order adopting the Boggs II F&R is that Tibbetts bars defendants' bid for qualified immunity."

pertinent portions of the record *de novo* and find no error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court ADOPTS Magistrate Judge Stewart's Findings and Recommendation (#105) and, therefore, Defendants Sowle and Short's Motion to Dismiss Amended Complaint (docket #89) and Defendants Hoover, Bradley, and French's Motion for Summary Judgment Against the First Amended Complaint (docket #91) are granted. Furthermore, to the extent that any portion of the Findings and Recommendation adopted in Robert Boggs v. Schrunk, et al, Case No. 07-CV-954-ST may be construed to conflict with this decision, the prior ruling is vacated.

IT IS SO ORDERED.

DATED this 1st day of August, 2011.

/s/ Marco Hernandez
MARCO HERNANDEZ
United States District Judge